

## **1. Application of the General Terms and Conditions**

These general terms and conditions (**General Terms and Conditions**) constitute an integral part of the Agreement regarding the delivery of the Service to the Merchant by the Supplier. The General Terms and Conditions shall be applied unless the Merchant and the Supplier have otherwise agreed in writing. The Agreement will enter into force when the parties have signed the Agreement or when the Supplier has approved the Agreement form submitted by the Merchant for the Service.

## **2. Definitions**

The following definitions shall apply to these General Terms and Conditions:

**Agreement** means the Agreement form, the General Terms and Conditions, the price list, and any order confirmation provided to the Merchant by the Supplier, which jointly constitute the entire Agreement regarding the Service.

**Merchant** refers to the entity that has entered into an Agreement with the Supplier regarding the delivery of the Service.

**Personal Data** means any information relating to an identified or identifiable person, and which is collected in connection to the Supplier's provision of the Service. Personal Data may include, but is not limited to, data collected for the purpose of transmitting Merchant's ecommerce payment transactions.

**Service** means Dibs Payment Gateway Service, a service as specified in more detail on the Supplier's webpage and/or Agreement form that can be used to accept ecommerce payment transactions using payment cards and/or other payment methods for which the Merchant has entered into agreements with one or more card payment acquirers and/or other payment method providers.

**Supplier** refers to the Nets affiliate or subsidiary with which an Agreement form for the Service is placed, or the entity identified on the Merchant's

Agreement form, invoice or other form of purchase document.

## **3. General Obligations of the Merchant**

The Merchant is responsible for the necessary implementation of/or adaptation to its ecommerce solution in order to enable communication with the Service.

The Merchant must carry out testing of the integration of its ecommerce solution with the Service in accordance with the Supplier's instructions before the Service can be deployed. The Merchant is responsible for any and all expenses incurred related to implementation and testing.

The Merchant's equipment and ecommerce solution must at all times comply with the requirements and specifications specified by the Supplier for the use of the Service.

The Merchant shall ensure that it has made the necessary agreements with card payment acquirers, other payment method providers and its settlement bank, in connection to and prior to the use of the Service.

The Merchant must inform the Supplier in writing and without undue delay of any change in the Merchant's information that may affect the Agreement or the Service, including but not limited to changes to the Merchant's address, telephone number, and e-mail address. The Merchant must also inform the Supplier of the termination or signing of agreements with card payment acquirers and/or other payment method providers. The Merchant is responsible for the accuracy and completeness of the information supplied to the Supplier.

## **4. General Obligations of the Supplier**

The Supplier will provide the Service to the Merchant for the purpose of transmitting Merchant's ecommerce payment transactions to agreed card payment acquirers and other payment method providers. For the sake of clarity it is noted that the Service does not comprise any transfer of funds.

The Supplier shall ensure that, where the Service involves processing of payment card data, the Service meets the certificate and security requirements specified by card organisations and the authorities, including the PCI DSS (Payment Card Industry - Data Security Standard).

The Service is available 24 hours a day for the transmission of ecommerce payment transactions. The Supplier will endeavour to provide availability of 99,5 %.

The Supplier shall not be responsible for the functionality or availability of third party services, e.g. telecommunication services or services of card payment acquirers and other payment method providers.

The Supplier shall provide support to the Merchant as specified from time to time on the Supplier's website. Support may be subject to separate charge.

The Supplier is entitled to interrupt the use of the Service if necessary due to maintenance, security breach, repair or development of the Service or if there is another justified reason for an interruption. The Supplier notifies the Merchant of any interruption in the use of the Service in advance, if possible.

The Supplier informs the Merchant of significant changes to the Service that require changes to the Merchant's ecommerce solution integration with the Service thirty (30) days prior to the change taking effect. The Merchant undertakes to update its ecommerce solution within the time limit specified by the Supplier. The Merchant is responsible for its own costs in respect of changes to its own systems, as well as for the implementation and testing thereof.

## **5. Intellectual Property Rights**

All intellectual property rights to the Service and associated documentation are property of the Supplier and/or third parties, and no such rights will be transferred to the Merchant under this Agreement.

## **6. Term and Termination**

Unless otherwise agreed in writing, the Agreement shall be valid for twelve (12) months and shall

automatically renew for additional twelve (12) months' period unless terminated by either party three (3) months prior to the expiration of the twelve (12) months' period. The Merchant's notice of termination shall be made through web interface designated by the Supplier or in accordance with the Supplier's instructions.

The Supplier shall be entitled to immediately terminate the Agreement and discontinue delivery of the Service at any time without notice if:

- a) the Merchant has materially breached the Agreement;
- b) the Merchant has filed for bankruptcy or applied for reorganisation, it has been put into liquidation, or it is otherwise declared to be unable to meet its contractual obligations;
- c) in the Supplier's opinion the hardware, software or communication connections used by the Merchant may pose risk to the security of the Service, or the Merchant's operations otherwise entail a data security risk, and the Merchant has not rectified the situation despite a written notification by the Supplier; or
- d) the Merchant uses the Service contrary to the Supplier's instructions.

If the Agreement is terminated by the Merchant, or by the Supplier due to circumstances for which the Merchant is responsible, to expire prior to the twelve (12) months' period, the Supplier shall be entitled to invoice all the fixed service fees for the remaining contract period at once to the Merchant.

If the Agreement is terminated, fees paid in advance will not be reimbursed.

## **7. Suspension of the Service**

If the Merchant has an unpaid overdue invoice, the Supplier shall be entitled to prevent the use of the Service until the overdue invoice has been paid in full. The Supplier shall be entitled to prevent the use of the Service instead of or in addition to the termination option specified in section 6. The Supplier shall notify the Merchant without undue delay of any measures it takes under this section 7.

The Merchant shall be obliged to pay all fees that are not charged on a pay-per-use basis even if the use of the Service is suspended. The provision of the Service will be restored when the Merchant has paid the overdue amounts with applicable interest and debt collection fees and otherwise meets the requirements of the General Terms and Conditions.

The Supplier shall be entitled to charge a fee for restoring the Service from the Merchant.

## **8. Prices and Terms of Payment**

The Merchant shall pay the fees for the Service and other charges as per the Supplier's price list as amended from time to time in accordance with section 11.

The payment terms are fourteen (14) days from the invoice date. Any comments on the invoice shall be submitted in writing and the undisputed sum paid within the due date.

Late payments are subject to interest in accordance with the applicable Interest Act.

The Supplier shall be entitled to collect overdue payments as well any collection and processing fees and accrued penalty interest in accordance with relevant legislation or assign such receivables to a third party for the purposes of collection.

## **9. Limitation of Liability**

Under no circumstances will the Supplier be liable for any indirect or incidental loss, operating losses, consequential damages, claims by third parties and/or lost data, profits, revenue, customers, goodwill or interest. The Supplier shall not be liable to the Merchant for any damage caused by the suspension of the Service under section 7.

The Supplier's liability for direct damages shall be limited to an amount that is equivalent to the service charges that the Merchant has paid to the Supplier under the Agreement during twelve (12) months prior to the damage.

The Supplier is responsible solely for its own Service and actions. The Supplier is therefore under no circumstances liable for any errors/defects or delays, or otherwise for failure to

fulfil its obligations, to the extent that this is the result of the actions of the Merchant or a third party.

## **10. Force Majeure**

The Supplier is not liable for losses incurred as a result of failure to comply with its obligations in connection with circumstances beyond the Supplier's control. The Supplier cannot be held responsible for losses incurred as a result of:

- breakdown of or lack of access to IT systems, or of damage to the data maintained in these systems as a result of any of the reasons listed below, irrespective of whether the Supplier or a third party is responsible for the operation of such systems,

- a power supply failure or failure in the Supplier's telecommunications systems, legislative or administrative interventions, natural disasters, war, revolution, civil unrest, sabotage, terrorism or vandalism (including virus attacks and computer hacking),

- strikes, lockouts, boycotts or blockades, regardless of whether the conflict is directed against or was started by the Supplier or by the Supplier's organisation, and regardless of the cause of such conflict. The foregoing also applies if the conflict only affects portions of the Supplier and other circumstances that are beyond the Supplier's control.

## **11. Amendments**

The Supplier may amend these General Terms and Conditions and prices, with thirty (30) days prior notice. Shorter notice may be given, if such amendment is in response to requirements from the public authorities, card payment acquirers or other payment method providers or the card organisations or for important security reasons. Notice is not required if the change is of minor importance or advantageous to the Merchant.

Unless the change is due to a compelling requirement by a card organisation or card payment acquirer, legislation, regulation, or an order or decision by an authority and the change is unfavourable for the Merchant, the Merchant shall be entitled to terminate the Agreement before the change becomes effective by submitting a written notice to the Supplier. If the Merchant has not terminated the Agreement in writing before the

change becomes effective, the Merchant shall be deemed to have agreed to the new terms and conditions and the Merchant shall be bound by the new provisions of the Agreement.

## **12. Notices**

Any notice by the Supplier to the Merchant under the Agreement may be issued by e.g. e-mail. The Merchant is obliged to provide the Supplier with an e-mail address to which such notice can be sent. The Merchant is obliged to inform the Supplier of any changes to the Merchant's e-mail address.

## **13. Personal Data**

Personal Data related to the Merchant (such as information on contact persons in relation to the Agreement) will be processed by the Supplier as a personal data controller. The purpose of the processing is for the Supplier to be able to provide the Service and otherwise fulfil its obligations and utilize its rights under the Agreement and applicable legislation.

Personal Data referred to herein can also be processed and disclosed (i) for marketing purposes of the Supplier's group companies and partners in accordance with section 14, (ii) in relation to recordings of calls as set out in section 15 for the purposes set out therein, and (iii) to check the Merchant's credit rating in accordance with section 15.

The Merchant is responsible for ensuring that it is legally entitled to provide the aforementioned data to the Supplier and that it may be processed for these purposes. The Merchant is responsible for informing the Merchant's employees and other persons whose data is collected and processed in accordance with the personal data legislation.

The transmission of Merchant's ecommerce payment transactions via the Service requires processing of Personal Data by the Supplier as a data processor on behalf of the Merchant.

Any processing of Personal Data by the Supplier on behalf of the Merchant, including the transmission of Merchant's ecommerce payment transactions, shall be carried out with due care, skill, diligence and confidentiality, and in accordance with the Merchant's reasonable written

instructions, applicable data protection legislation and contractual obligations.

The Supplier shall, to a reasonable extent, document its data processing activities and assist the Merchant in ensuring its compliance with data protection legislation. The Supplier's assistance in possible access, rectification or erasure requests made by data subjects may be subject to a separate fee. The Supplier may, subject to its independent discretion, engage subcontractors and transfer Personal Data outside the European Union and European Economic Area in accordance with the personal data regulation. The Supplier shall provide a list of the subcontractors and processing locations of the personal data from time to time upon written request.

## **14. Confidentiality**

Each party agrees to maintain confidentiality with respect to information of a confidential nature provided by the other party. The duty of confidentiality applies unless otherwise agreed or in cases where a party is required to disclose such information by law, regulation or a decision taken by public authority, or where the information in question is already publicly available and this fact cannot be attributed to the other party's breach of contract.

The Supplier is entitled to disclose information about the Merchant to the card organisations, technical subcontractors, sales partners, card payment acquirers and other payment method providers, for the purposes of meeting the applicable compliance and security requirements and for providing the Service to the Merchant.

The Merchant gives its consent for the Supplier to disclose information about the Merchant (such as contact details, information relating to the Agreement and information on the business relationship with the Supplier) to other companies in the same corporate group as the Supplier for use in e.g. intra-group reporting, support services, marketing and sale of products and services, including marketing through electronic means such as e-mail. Recipients of marketing through electronic means may always opt-out from receiving any further marketing from the Supplier or its group companies.

## **15. Other Terms**

The Supplier may record any calls placed to or from its service numbers. The recorded calls shall only be handled by the persons with the necessary authorisation. The recorded calls may be used for customer management, investigating complaints, quality control and for training customer service representatives.

The Supplier is entitled to check the Merchant's credit rating upon entering into the Agreement and during the term thereof in order to ensure the Merchant being able to comply with its obligations under the Agreement.

The Supplier is entitled to use the Merchant's name and logo as a reference in its marketing.

The Supplier may assign the Agreement to a company in the Nets Group without the Merchant's consent. The Supplier is entitled, without the Merchant's consent, to assign the Agreement to a third party if the Supplier sells the activities covered by the Agreement to a third party, whether in whole or in part. In such cases, the Agreement will continue in force, without changes, with the new owner entering into the Supplier's place as the contracting party.

The Merchant is not entitled to assign or in any other way transfer the Agreement to a third party, whether in whole or in part without the Supplier's prior written consent.

## **16. Applicable Law and Resolution of Conflicts**

This Agreement shall be subject to the law of the registered office of the Supplier company which has entered into Agreement with the Merchant. Any conflicts arising out of or related to the Agreement shall be primarily resolved through negotiations between the parties. If an agreement cannot be reached, the conflict shall be resolved by courts with the district court of the Supplier domicile as the court of first instance.

## **17. The Validity of the General Terms and Conditions**

These General Terms and Conditions shall replace any previous versions and any other provisions applied between the Supplier and the Merchant when they enter into force.